HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 10339 OF 1998

DATED: 29.3.2007

Between:

B. Satish Kumar

… Petitioner

and

The District Judge, Nizamabad and others

… Respondents

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 10339 OF 1998

ORAL ORDER:

The writ petition is filed for a writ of Mandamus, declaring the action of the respondents with regard to seizure of vehicle vide orders passed by the 2nd respondent vide Proc.No.4698/93-S4/O.R.No.29/FPF/93-94 dated 29.11.1997, which was confirmed by the 1st respondent in CMA No.36 of 1997 dated 2.3.1998, as illegal, arbitrary and violative of principles of natural justice and also contrary to the provisions of A.P. Forest Act, 1967 (for short 'the Act').

Brief facts necessary for disposal of the writ petition are that the petitioner is the owner of the lorry bearing No. APJ 9397, doing transport business. While so, the 3rd respondent intercepted the lorry on 29.10.1993 at Banswada, Nizamabad District, for illegally transporting timber and accordingly seized the same under a cover of panchanama, alleging a forest offence. It is stated that 139 timber logs measuring 6.607 cmt were being transported without Government distinguishable marks, which was valued at Rs.37,441/-. Accordingly

a case in POR No.31 of 109 dated 29.10.1993 was registered. The 2nd respondent issued notice under Section 44 (2-A) (2-B) of the Act for an enquiry. The petitioner attended the said enquiry. His case was that his lorry was not in a fit condition to ply on the road and it was kept in the premises of Punjab Body Builders at Nizamabad for getting repairs done and the vehicle was allegedly involved in the said crime by unknown persons, without his knowledge. It is alleged that the 2nd respondent, without taking into consideration his contentions, passed the impugned order of confiscation. Even the 1st respondent confirmed the order of the 2nd respondent by judgment in CMA No.36/97 dated 2.3.1998. Aggrieved thereby, the petitioner has filed the present writ petition.

No doubt, the petitioner was not there at the time when the vehicle with the false produce was seized. On that score, it cannot be concluded that the petitioner has no knowledge about the same. But at the same time, it is also not possible to hold that the petitioner was having knowledge about the forest offence and with his connivance only the said act has been done.

Hence, this court is of the view that instead of confiscating the vehicle, the petitioner can be directed to pay an amount of Rs.10,000/- towards penalty. Accordingly, the bank guarantee furnished by the petitioner at the time when the vehicle was released, is ordered to be released and instead of confiscating the vehicle, the petitioner is directed to pay penalty of Rs.10,000/-.

With the above modification of the orders passed by the authorities below, this writ petition is disposed of.

GOPALA KRISHNA TAMADA, J

Date: 29.3.2007
cvm